

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**

Author: Alquist Analyst: Deborah Barrett Bill Number: SB 618
Related Bills: None Telephone: 845-4301 Introduced Date: February 22, 2007
Attorney: Tommy Leung Sponsor: _____

SUBJECT: State Agencies Maintain All Records In Electronic Format

SUMMARY

This bill would require that state agencies maintain all records in an electronic format by January 1, 2010.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to examine how quickly state agencies can modernize some basic functions of state government operations.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2008, and would require all state agencies to comply with the bill's requirements no later than January 1, 2010.

POSITION

Pending.

ANALYSIS**FEDERAL/STATE LAW**

Under federal law, the U.S. Freedom of Information Act (FOIA) ensures public access to U.S. government records. Upon written request, federal agencies are required to disclose requested records, unless exempt from disclosure under one of the specific exemptions in FOIA. Federal agencies are required to provide the requested records in any form or format requested, including electronic means, if the record is readily reproducible by the agency in the form or format requested.

Under state law, the California Public Records Act is designed to give the public access to information in possession of public agencies to the extent that information is a public record. Under state law, an agency is required to make requested records available in an electronic format if the records are maintained in an electronic format within the agency records. Agencies are required to provide, upon payment of fees for the direct costs of copying, an exact copy of the requested documents, unless it is not practical.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director**Date**

Lynette Iwafuchi
For Selvi Stanislaus

5/10/07

THIS BILL

This bill would require all state agencies to maintain all of their records in an electronic format no later than January 1, 2010. This requirement would apply to any document or writing containing information relating to the conduct of the people's business that is prepared, owned, used, or retained by any state agency that is not already in an electronic format.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

To the extent that the author intends only those records that are public records to be maintained in an electronic format, Franchise Tax Board (FTB) would be able to comply with the requirements of the bill; however, significant amounts of records are received annually from taxpayers that are not public records or maintained electronically that would prevent full compliance with this bill's provisions by the specified date. In order to avoid confusion over what records are subject to this bill's requirements, it is recommended that an express reference to the Public Records Act that would make a distinction of the application of this bill's provisions to public and confidential records.

The majority of public record documents now created by the department are in electronic formats. There are substantial amounts of historical records in paper format that could be subject to PRA requests. It may not be cost effective to convert those records without a need to do so. The author may want to consider allowing agencies to convert documents to electronic format upon request to minimize expending resources to convert records no one is interested in seeing.

OTHER STATES' INFORMATION

Laws from the states of *Illinois, Florida, Massachusetts, New York, Michigan, and Minnesota* were reviewed based on their similarities to California's economy, business entity types, and tax laws. Comparable requirements to require state agency records to be maintained only in electronic format were not found.

FISCAL IMPACT

Implementing this bill could have a substantial impact on the department's costs, depending on how much data must be converted to an electronic format to comply with the provisions of this bill. The department will be able to develop a cost estimate after the implementation concerns addressed above are resolved as the bill progresses through the Legislative process.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

LEGISLATIVE STAFF CONTACT

Deborah Barrett
Franchise Tax Board
(916) 845-4301
Deborah.Barrett@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333
brian.putler@ftb.ca.gov